

# ***Knowledge Management – Law Firms Can Do It Too!<sup>1</sup>***

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Law firms have always been know-how businesses. However, the know-how has been locked in the minds of fee earners, difficult to share and easy to lose. A good knowledge management system will extract know-how from the individual so that it can be managed and exploited more effectively across the firm.<sup>2</sup>

I was somewhat daunted by the title of this paper when I first read it because knowledge management can be approached from so many different angles. These range from the complexities of the theoretical base upon which knowledge management rests to the practicalities of how to implement a system of knowledge management in an organisation.

The purpose of my paper this afternoon is not to cover the full spectrum of knowledge management but to share some of my experiences implementing a knowledge management strategy at Mallesons Stephen Jaques.

## ***WHAT IS KNOWLEDGE?***

In theory, knowledge and information are very different. Information can be defined as a message, it has a sender and receiver, it informs and shapes the person who receives it.<sup>3</sup> Knowledge is more complex. Davenport and Prusak define knowledge as "a fluid mix of framed experience, values, contextual information, and expert insight that provides a framework for evaluating and incorporating new experiences and information. It originates and is applied in the minds of knowers. In organisations, it often becomes embedded not only in documents or repositories but also in organisational routines, processes, practices, and norms."<sup>4</sup>

Consequently, capturing and disseminating knowledge is difficult. In much discussion of knowledge management today distinction is made between tacit and explicit knowledge. Explicit knowledge can be contained in a document, whereas tacit knowledge exists in a person's mind, it can be intuitive and built up from experience. Tacit knowledge is therefore the most difficult to capture. In law firms it is the partners, based on their experience, who will have the most valuable knowledge. This poses one of the fundamental problems with applying knowledge management in a law firm - being able to establish a process for capturing that knowledge without partners having to commit too much time and instilling the cultural climate necessary to encourage the process.

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<sup>1</sup> Delivered at the Law Librarians' Symposium, Friday 2 October 1998

<sup>2</sup> Dean, Barry "Knowledge management: the way of the future" *Legal Business* (March 1998) p 90

<sup>3</sup> Davenport, T and Prusak, L *Working Knowledge: How Organizations Manage What They Know*. Boston, Harvard Business School Press 1998 at p 3

<sup>4</sup> Id at p 5

## **HOW CAN WE APPLY KNOWLEDGE MANAGEMENT IN THE FIRM?**

Barry Dean states that knowledge management systems in a law firm usually include collections of standard documents e.g. precedents, collections of materials such as transaction bibles, letters of advice, counsels opinions, internal memoranda, discussion groups (increasingly electronic) and regular updates on law and practice<sup>5</sup>. Where the update material has some sort of value added then this constitutes knowledge. If it is simply a list of the latest legislation or case law it is information or data. In addition to the categories above, marketing knowledge has also become extremely important to law firms. Those responsible for marketing will benefit enormously from the knowledge that has been accumulated about clients and relationships with them. This type of material is often not captured in any formal structure but it is becoming increasingly valuable as firms become more competitive.

Although knowledge transfer can be achieved to a degree through computer applications such as Lotus Notes, more informal and less structured methods of transfer are vital to the development of a knowledge culture in a law firm. This is reflected in studies which show that executives "get two thirds of their information and knowledge from face-to-face meetings"<sup>6</sup>. The method of transfer also affects the absorption of the knowledge. For example, a mentoring program will create a higher level of knowledge absorption than reading a document on a database. This is especially true of tacit knowledge which is difficult to capture in a database, though it is important to attempt to capture this tacit knowledge in an electronic format in order for it not to walk out the door with an employee when they leave the firm. If it is not captured the firm loses the only repository of that intellectual capital, the employee's brain.<sup>7</sup>

Informal knowledge transfer can occur in a number of spontaneous situations. Conversations "around the water cooler"<sup>8</sup>, at a drinks or dinner function, in the lifts can all create opportunities for employees to share knowledge. Increasing these chance encounters by organising informal gatherings can increase the likelihood of knowledge being transferred. For example, firms can organise functions outside of work hours and encourage employees to attend, lunches between colleagues with similar work practices and interests can be facilitated, and informal meetings can be established. These meetings should be face-to-face where possible.

Where face-to-face meetings are not possible, a number of tools can be used to facilitate communication. These include video-conferencing, telephone conversations, email and discussion databases. Using these modes of communication can enhance relationships, cultivate trust between employees and encourage the transfer of knowledge. Because of the serendipitous nature of informal communication, it should be complemented by a structured process of capturing knowledge in databases. A distinction should be drawn between the capture of information and the capture of knowledge.

<sup>5</sup> Dean, Barry 'Knowledge management: the way of the future' *Legal Business* (March 1998) p 90

<sup>6</sup> Davenport T and Prusak, L *Working Knowledge. How Organizations Manage What They Know*, Boston, Harvard Business School Press, 1998 at p 5.

<sup>7</sup> Paul Strassman interviewed in *Leading lights*, Knowledge Inc. <http://webcom.com/quantera/strassman.html>

<sup>8</sup> Dean, Barry 'Knowledge management: the way of the future' *Legal Business* (March 1998) p 90

Brent Pearson from Morgan & Banks, in a paper he presented at Knowledge Forum, earlier this year, made the clear distinction between knowledge and information. He posited the view that an organisation needs to have its information management strategy firmly in place before it can implement a knowledge management strategy.<sup>9</sup> Indeed, it would seem that if you do have your information strategy in place, it will then be much easier to take it to the next phase of real knowledge management. Facilitation of the knowledge management process can leverage off the processes of information management already in place.

### **KEY SUCCESS FACTORS**

Davenport and Prusak identified key factors that lead to the implementation of a successful knowledge management project. These factors are based on a study of thirty one knowledge management projects in twenty different firms.

The nine factors were as follows:<sup>10</sup>

- A knowledge-oriented culture
- Technical and organisational infrastructure
- Senior management support
- A link to economics or industry value
- A modicum of process orientation
- Clarity of vision and language
- Non-trivial motivational aids
- Some level of knowledge structure
- Multiple channels for knowledge transfer

Each of these factors is essential for success and each can be applied to the law firm situation.

#### ***A knowledge-oriented culture***

It is often thought that lawyers in firms do not like to share their knowledge. One of the key elements in encouraging change is ensuring that the knowledge strategy suits the organisational structure and culture of the firm. For example, if a firm is national then the knowledge strategy should be national. If the state offices are autonomous then they must either participate in or develop their own knowledge management strategy, but allow for 'cross fertilisation' and sharing among the state based units. The important thing is for the lawyers and management to feel they have some ownership of the process and strategy. As outlined previously, communication, both by electronic means and face to face, is essential for true knowledge sharing.

Another important aspect of a knowledge-oriented culture is allowing some freedom within the organisation. As Yogesh Malhotra pointed out in his Keynote presentation for the Knowledge Ecology Fair, "the most creative and innovative employees may amount to

<sup>9</sup> Pearson, Brent 'Implementing a knowledge network at Morgan & Banks' *Knowledge Management Forum*. Sydney, 1998.

<sup>10</sup> Davenport T and Prusak, L *Working Knowledge How Organizations Manage What They Know*, Boston, Harvard Business School Press, 1998 at p 153

negligible knowledge creation if the overarching organizational controls emphasise compliance with the ‘given’ procedures, rules, ‘best practices’, ‘expert systems’ and so on.<sup>11</sup> While much legal work is highly structured and defined by the legislative base upon which it rests, the power of interpretation is what distinguishes a good lawyer from an average lawyer. Indeed in Legal Profiles, the book that every lawyer loves/hates to read the highest praise by clients was for those lawyers or partners who could think “outside the square”<sup>12</sup>

### ***Technical and organisational infrastructure***

Technical infrastructure needs to be robust enough to support new or even existing technologies. Successful implementation of a knowledge management strategy will be doomed if users or contributors are frustrated by slow response times or system down times

Jeff Sussman from Delphi Consulting lists the following as knowledge management component technologies - “databases and knowledge bases, document management, Intranets, groupware/collaboration software, search and navigation tools, cognition tools workflow and the Internet”.<sup>13</sup> In law firms many of these are in use already, Lotus Notes for groupware and databases, Docs Open for document management systems, Intranets, Microsoft Index server, Topic for search tools and increasingly more firms are implementing Fulcrum as a navigation and search tool.

An important lesson, and one that law librarians know intuitively, is that technology should not be the driver of a knowledge management strategy. The knowledge needs of the client must drive the strategy. Technology is simply the means of implementing the strategy. A successful implementation is based on collaboration between the IT department and information providers (librarians) with input from other stakeholders

The technology should be transparent to the user, with seamless interfaces to the knowledge banks or other knowledge sources. Users should not have to know that they are using Lotus Notes or PC Docs. This is where an Intranet can be effective as a common browser/interface that sits over the top of proprietary technologies.

Librarians need at least a basic level understanding of technology. They need to know comprehensively what is available and what developments are on the horizon. Most importantly they need to be aware of what plans the IT department have as this will have a direct impact on the implementation of the knowledge management strategy. A close working relationship with the IT department is essential. If problems exist in the relationship librarians, particularly those at management level, need to try to overcome these problems. Often intervention of the knowledge management champion or sponsor assists if the librarian is unable to achieve this on their own.

<sup>11</sup> Malhotra, Yogesh “Toward a knowledge ecology for organizational white-water”, keynote presentation for the *Knowledge Ecology Fair 98 · Beyond Knowledge Management* <http://www.brint.com/papers/ecology.htm>

<sup>12</sup> Warnecke, Andrea (ed) *Legal Profiles 1998*, Sydney, Warnecke Consulting 1998 at p 120

<sup>13</sup> Sussman, Jeff “Knowledge management : an intersection of business imperative and technology”, *Knowledge Management Forum*, Sydney, 1998

To facilitate the knowledge management implementation the organisational infrastructure must define the roles of key personnel. In most cases in a law firm, the staff resources will already be in place. However current positions may need to be changed and roles expanded to encompass knowledge management. Positions may need to be relabelled so the organisation knows the strategy is being implemented and who is involved in the implementation. The law librarian could undertake the role of "knowledge manager"<sup>14</sup>. This role is appropriate for middle management who form the bridge between the vision at the top and the frontline knowledge workers. They develop strategies and process for implementing knowledge management. Librarians can be knowledge brokers - connecting people to those people in the firm with expertise. Librarians can be active knowledge facilitators - they assist in capturing the information and knowledge. The "knowledge developers" may be the staff who have done the work", they own the information and they are the contact for that information.<sup>15</sup> In the law firm the lawyers are knowledge developers. The librarian or knowledge facilitator ensures this content is captured and that other lawyers within the firm know who to contact if they need advice in this area.

The role of Chief Information Officer (CIO) or Chief Knowledge Officer requires "a broad business background, superior communication skills, [and is] concerned with all areas of technology is directly involved at corporate level and reports directly to the CEO or/and is on the executive team"<sup>16</sup>. If you as a librarian in a management position fit these criteria then you are well suited to the role. From my experience however, it would appear that librarians in general do not enjoy this position within the organisation. I believe, however, that many librarians could be in this position but are not given the opportunity. Larry Pruzak in a recent interview noted that corporate librarians have been "marginalised until now because they are too democratic. They're nice people and they treat everyone the same. That's no way to build a balance at the favour bank"<sup>17</sup>. Rather than being marginalised librarians need to be able to demonstrate their business knowledge and skills to the key decision makers in the firm so that they will be included in the discussions about firm strategy and direction that take place at senior management and CEO level.

#### *Senior management support*

Senior management support is crucial to the success of any knowledge management strategy. The CEO, managing partner or state manager must be firmly committed to the process. Cultural change can demand a big stick - the only really effective big stick is that wielded from the very top. If senior management support for a knowledge management initiative is lacking, librarians have to do presentations, set up meetings and arrange other activities to raise the awareness of senior management and attempt to gain their support for the initiative. If you need to go down this path make sure you speak the same language and that senior management can see tangible, business benefits from the proposed strategy.

Within the organisational structure the knowledge management department must sit at the same level as other support services such as marketing, information technology and human

<sup>14</sup> Daniel. Anna *Knowledge Management a Thumbnail Sketch* Presentation. RMII. 1998

<sup>15</sup> Id at p 12

<sup>16</sup> Martin. Bill *Knowledge Management a Thumbnail Sketch* Presentation. RMII, 1998

<sup>17</sup> Glasser, Perry "Management the oral art : an interview for CIO with Larry Pruzak". *Australian Library Journal* 47 (3) Aug 1998 at p 274.

resources. The knowledge officer or manager must at worst be one or two levels down from the CEO.

If the library manager is not in the role of chief knowledge officer, it may prove difficult for them to enjoy recognition for all their ideas and hard work. If this recognition is not forthcoming from where it counts i.e. senior management, the librarian needs to try to counteract this but still maintain a balanced view. The main point is that the project is happening and it should not be sabotaged for the sake of personal ego. Librarians can achieve recognition in other ways. The role you have played can be added to your curriculum vitae, your skills will be increasingly marketable. People experienced in knowledge management implementation are, and will become, increasingly sought after. If you have a proven track record this counts for much. The skills acquired on the project will be many and varied - project management, broader and deeper understanding of the business of the firm, communication and negotiation skills, knowledge of technology.

Implementing a knowledge management strategy means librarians have to work closely with the other administration departments that traditionally they may not have worked with, as well as having to work more closely with the legal practitioners in their day to day business. The knowledge gained from this experience is invaluable, particularly if you want to progress on to senior management roles. In addition, the work will be richer and more rewarding. It will also be much harder - knowledge management is not an easy ride.

One cannot talk about roles and hierarchy without talking about politics. Put simply, I believe you have to play the game if you want to be involved. Realistically, this is how organisations work. You can be the broker who sets up deals between those who have knowledge and those who don't. As Larry Prusak states "if knowledge is associated with power, money and success, then it is also associated with lobbying, intrigue and backroom deals. Astute knowledge managers will thus acknowledge and cultivate politics. They will lobby for the use and value of knowledge in their organisations. That is why the politics of knowledge is important."<sup>18</sup> Librarians have varied skills in playing the political game. Some librarians play it extremely well, others are less inclined to. It would be interesting to compare those who do and those who don't and what effect this has on their department and where it sits in the firm.

#### *A link to economics or industry value*

It is easy to establish a link to economics or industry value and everyone is doing it. The Big Five are a competitive threat to legal firms with their one stop shopping approach to services. These firms have been at the forefront of implementing knowledge management strategies. Law firms cannot afford not to do it. Darren Adams from Fulcrum, in a paper presented at Knowledge Forum, quoted Delphi Consulting Group's seven trends in knowledge management. Two of these trends identified were "Knowledge Management will be an entry requirement, not a differentiator. Knowledge management will beget new rules for strategic competition."<sup>19</sup> Firms have to become global, economics and the

<sup>18</sup> Davenport, Thomas *Some Principles of Knowledge Management* <http://kman.bus.utexas.edu/kman/kmpri.htm>

<sup>19</sup> Adams, Darren "Taking knowledge management to the next level". *Knowledge Management Forum*. Sydney, 1998

convergence of technologies are demanding it. Knowledge management strategies provide a way to achieve this. Firms need to be adaptable and flexible if they are to survive. They have to be innovative in their approach. This is as important for law firms as any other organisations. Librarians can contribute as they are used to thinking laterally in their quest for information and developing new systems and strategies in their department. The key issue is to stay ahead, to ascertain what other firms are doing. There is nothing wrong with stolen knowledge. Some firms actually have awards in place for the best idea learnt from another organisation.

Knowledge management can also be an external marketing tool for the firm (and an internal one for the librarians). Increasingly, clients are impressed by firms that are perceived to be cutting edge, firms that stay up to date with new developments and technologies. This may engender new business for the firm or ensure present clients stay with the firm. It can be tied to the bottom line - if the lawyer does something twice as well, this is good for business.

#### *A modicum of process orientation*

A modicum of process orientation is essential, particularly in the early phases of implementation. If you can leverage off existing processes but possibly improve these processes the implementation will be more easily accepted in the firm. This requires librarians to look at all the processes in the firm, particularly those concerning document management, file management, precedents, workflow etc. Librarians also need to look at their own procedures. Implementing a true knowledge management strategy requires librarians who are working as knowledge facilitators to spend more time working closely with lawyers or practice groups. Librarians will not have as much time to devote to everyday core processes such as cataloguing, serials accessioning etc. One solution is to look at ways to rationalise these tasks. For example, make your catalogue records simple - law firms are not public libraries, they don't need high levels of detail. Another option is to look at outsourcing the more process driven tasks. This will only serve to enrich the librarian's work and their sense of worth to the firm.

#### *Clarity of vision and language*

Clarity of vision and language is crucial when implementing any change and particularly so for knowledge management. The strategy, as stated to the firm, has to relate to everyday procedures and the broader vision of the firm. It must always be tied to the bottom line. The implementation strategy must be practical not academic or theoretical. For librarians to achieve this all staff in the library must be fully conversant with the vision and goals of the firm. Library staff must know the objectives and the business of the firm. Every process or stage of strategic planning should be tied back to the business of the firm. Does it make sense to do it this way, is there a business case for it, is this the way the lawyer operates or does business?

Keep it simple. Bill Jensen, from results of the 1997 Jensen Groups Complexity Study, says that simplicity could become your ultimate strategy. "Employees aren't demanding a return to the old employment contract or pleading for hand holding. They just want to

know what we want them to accomplish. They want us to clearly communicate their goals and objectives.”<sup>20</sup> Keep your communication, oral or written, free of jargon.

#### ***Non-trivial motivational aids***

In achieving lawyer buy-in to the knowledge management strategy and implementation, non-trivial motivational aids need to be used. These range from contribution to knowledge management forming part of the performance review process to reinforcement of the value of the process from senior management. Selfish motives will also come into play. If practitioners can get immediate, tangible benefits from something, they are more likely to contribute to it. The benefit may be easier processes for doing things or increased recognition of expertise through the firm which can lead to promotion. David Maister observed in a recent BRW article, that the most admired, profitable and fast-growing firms don’t have incentive systems, instead they have group rewards that encourage members to help each other but don’t tolerate passengers.<sup>21</sup>

This is true for library staff as well. Change is always difficult. If library staff can see tangible benefits to themselves they will be more likely to co-operate and contribute to the implementation of new strategies and procedures. Knowledge management needs enthusiastic people and people with perseverance and patience. Benefits to library staff can range from promotions to salary increases due to recognition of their value in the market place and within the firm.

It is useful for librarians involved in knowledge management implementation to discuss these issues with Human Resources and determine how they can be tied into recruitment procedures and performance appraisals. Having a knowledge management strategy in place means that you will want to hire people who not only have good knowledge and expertise but who would be willing contributors to the environment. This applies equally to library staff and legal staff. Finding library staff who have the initiative, subject expertise, flexibility, creativity and personality for these roles is not easy but good staff are crucial to the process. Due to the nature of knowledge management, the necessity of working more closely with the practitioners and the increased work load, librarians may feel much more accountable. They are also more visible and their profile is raised within the organisation.

#### ***Some level of knowledge structure***

The greatest skill librarians can bring is their ability to structure and organise information. The librarian needs to relate the structure to the practitioners’ work practice - how do they like to access their information? This is certainly not new to librarians and these skills are valuable and unique and should be marketed as much as possible. Some examples of implementing a knowledge structure include using a thesaurus for keyword searching, a hierarchy as navigational aids or a search engine to allow full text searching. A thesaurus should be transparent to the user. The system should be able to guide the user in terms of using broader or narrower search terms. The lawyer should not have to keep typing in keywords. Lawyers need to be educated on how to contribute to the knowledge sources.

<sup>20</sup> Jensen, Bill ‘Make it simple! how simplicity could become your ultimate strategy’, *Strategy and Leadership*, March 1997

<sup>21</sup> Maister, David ‘The Boston rocket delivers a few home truths’, *Business Review Weekly*, March 16 1998 at p 111

and how to access the knowledge, although if the knowledge is well structured with multiple entry points it will be intuitive. Rather than formal training, all that may be required are awareness sessions highlighting what is available and where to find it. Full text searching of a huge document depository can lead to information anarchy - a lesson learnt from the Internet.

#### *Multiple channels for knowledge transfer*

As discussed previously, successful knowledge transfer incorporates face to face communication as well as electronic communication. In law firms the obvious venue for this is practice group meetings. These need to be held regularly and with clear agendas. To encourage lawyers to participate, they have to feel that these meetings are beneficial. Librarians will gain insight into the firm's business by attending these meetings. Opportunities for informal discussion also need to be encouraged. This would be particularly valuable for junior solicitors who may not get many opportunities to discuss issues with partners on an informal basis.

#### **CONCLUSION**

Knowledge is dynamic, therefore an organisation must adopt a dynamic approach to knowledge management. Knowledge management is affected by market forces, changes in technology, economics and globalisation. You need to be constantly reassessing your approach to knowledge management. Processes implemented to manage knowledge should be dynamic - not static or based in heavy moribund structures. The processes must be easily adapted to new ways and new demands. As Davenport and Prusak point out "because of the prominent human element in knowledge, a flexible, evolving structure for knowledge is desirable."<sup>22</sup> Adaptability is the key to a successful knowledge management strategy. Staff likewise should be dynamic, willing to change and enthusiastically embrace change and the shared vision behind the change.

Lawyers are knowledge workers and law librarians are in a unique position to ensure that knowledge is captured and shared. Implementing a knowledge management strategy is not easy, however the rewards are many and librarians should embrace the opportunity to be involved.

<sup>22</sup> Davenport I and Prusak L *Working Knowledge How Organizations Manage What They Know*, Boston, Harvard Business School Press, 1998 at p 161.